

SIMPSON THACHER & BARTLETT LLP

425 LEXINGTON AVENUE
NEW YORK, N.Y. 10017-3954
(212) 455-2000

FACSIMILE (212) 455-2502

DIRECT DIAL NUMBER
(212) 455-3203

E-MAIL ADDRESS
jwayland@stblaw.com

BY FAX

June 25, 2008

RE: *Hinds County, Mississippi v. Wachovia Bank N.A., et al.*,
08-cv-2516 (VM)

The Honorable Victor Marrero
Federal District Judge
United States District Court
Southern District of New York
United States Courthouse
500 Pearl St., Room 660
New York, N.Y. 10007

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7-11-08

Dear Judge Marrero:

We represent JP Morgan Chase & Co. and Bear, Stearns & Co., Inc. in the above referenced action. We write on behalf of thirty-two defendants¹ in this action in response to the June 20, 2008 Order for Initial Pretrial Conference scheduling a pretrial conference for July 11, 2008.

¹ AIG Financial Products Corp.; AIG SunAmerica Life Assurance Co.; Bear, Stearns & Co., Inc.; Cain Brothers & Co., LLC; CDR Financial Products; First Southwest Company; Financial Security Assurance Holdings Ltd.; Financial Security Assurance Inc.; Financial Guaranty Insurance Company; GE Funding Capital Market Services, Inc.; Genworth Financial Inc.; George K. Baum & Co.; JP Morgan Chase & Co.; Kinsell Newcomb & De Dios Inc.; Lehman Brothers Inc.; Merrill Lynch & Co., Inc.; Morgan Keegan & Co., Inc.; Morgan Stanley; National Westminster Bank PLC; Natixis Funding Corp.; Natixis S.A.; PackerKiss Securities, Inc.; Piper Jaffray & Co.; Shockley Financial Corp.; Société Générale, S.A.; Sound Capital Management, Inc.; Trinity Funding Co., LLC; UBS AG; Wachovia Bank N.A.; Winters & Co. Advisors, LLC; XL Asset Funding Co., LLC.; XL Life Insurance & Annuity Co.

SIMPSON THACHER & BARTLETT LLP

The Honorable Victor Marrero

-2-

June 25, 2008

The *Hinds County* action in which the conference has been ordered was the first of two related putative class actions filed in this Court. Two actions pending in other courts were transferred to this Court by the United States Judicial Panel on Multidistrict Litigation ("JPML") on June 16, 2008.² On June 23, 2008, the Court ordered the four actions consolidated under the *Hinds County* docket number.³ Three additional cases have been identified by the JPML as potential tag-along actions.⁴

We understand that the Court's Individual Practices require that all parties consult prior to convening for the pretrial conference in order to: (1) submit a status letter describing the factual and legal bases of the case; and (2) prepare a Case Management Plan for endorsement and approval by the Court.

In this multidistrict class action litigation, we believe that it is premature for the parties to consult regarding a Case Management Plan. Currently, various plaintiffs represented by different counsel have filed at least seven complaints. Once all of the cases

² The actions transferred to the Court were *Fairfax County, Virginia, et al. v. PackerKiss Securities, Inc., et al.*, D.D.C. No. 1:08-432 and *Fairfax County, Virginia, et al. v. Bank of America*, D.D.C. No. 1:08-433.

³ The four consolidated actions are: *Hinds County, Mississippi v. Wachovia Bank N.A., et al.*, S.D.N.Y. No. 1:08-cv-2516; *Haywood County, Tennessee v. Bank of America, N.A., et al.*, S.D.N.Y. No. 1:08-cv-3002; *Fairfax County, Virginia, et al. v. PackerKiss Securities, Inc., et al.*, S.D.N.Y. No. 1:08-cv-5492; *Fairfax County, Virginia, et al. v. Bank of America*, S.D.N.Y. No. 1:08-cv-5493. See Order, *Hinds County, Mississippi v. Wachovia Bank N.A., et al.*, No. 1:08-cv-2516 (June 23, 2008).

⁴ The potential tag-along actions are: *Central Bucks School District v. Wachovia Bank N.A., et al.*, D.D.C. No. 1:08-cv-00956; *Central Bucks School District v. Bank of America N.A.*, D.D.C. No. 1:08-cv-955; *City of Oakland v. AIG Financial Products Corp., et al.*, N.D. Cal. No. 1:09-cv-2116. See Transfer Order, *In re: Mun. Derivatives Antitrust Litig.*, MDL No. 150 (J.P.M.L. June 16, 2008).

SIMPSON THACHER & BARTLETT LLP

The Honorable Victor Marrero

-3-

June 25, 2008

have transferred to this Court, we expect that one or more plaintiffs' counsel will file a motion seeking appointment as interim lead class counsel. Based on our experience in similar putative class actions, we believe that it will be much more efficient for defendants to coordinate with interim lead class counsel regarding the issues that are typically addressed in a Case Management Plan. In the absence of an interim lead class counsel, there is no single representative of plaintiffs' interests with whom defendants can discuss these issues. We therefore respectfully propose postponing the pretrial conference until after the related actions have been transferred to this Court and the Court appoints interim lead class counsel.

We are available, at the Court's convenience, to discuss this issue further.

Respectfully submitted,


Joseph F. Wayland

cc: All counsel

Request DENIED. The Court is not requiring a Case Management Plan at this time. The matters described above can be addressed at the conference on 7-11-08 with a view to developing a process to govern
SO ORDERED: Pre-trial proceedings and dealing with additional cases transferred
6-25-08

DATE	VICTOR MARRERO, U.S.D.J.
------	--------------------------